

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

VICTOR BENITEZ,

Plaintiff,

- against -

THE CITY OF NEW YORK, ET AL.,

Defendants.


DECLARATION OF SERVICE
07 Civ. 4814 (PAC)

-----x

STATE OF NEW YORK)
 : SS. :
COUNTY OF KINGS)

MATTHEW FLAMM, declares the following under penalty of perjury
pursuant to 28 U.S.C. §1746:

That on October 16, 2007, I served the AMENDED COMPLAINT upon Brian
Maxey, attorney for defendants, at the New York City Law Department, 100
Church Street, New York, New York, that being the address within the State
theretofore designated for that purpose, by personally delivering a copy as
evidenced by the date/time stamp appearing on the annexed copy of the first page
of the Amended Complaint.



Matthew Flamm

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
VICTOR BENITEZ,

Plaintiff,

- against -

THE CITY OF NEW YORK, JEROME RICE,
ALLEN GAINES and LYDIA SANTIAGO,

Defendants.

FIRST AMENDED
COMPLAINT
07 CV 4814 (PAC)

Jury Trial Demanded

-----X
Victor Benitez, by his attorney, Matthew Flamm, alleges the following as
his First Amended Complaint:

Nature of the Action

1. This civil rights action arises from the brutal and unnecessary use of force on Victor Benitez on January 25, 2007 while plaintiff was a sentenced inmate imprisoned in a City-run jail on Rikers Island. Plaintiff seeks declaratory relief pursuant to 28 U.S.C. §2201 and, under 42 U.S.C. §1983, compensatory and punitive damages for violation of his civil rights.

Jurisdiction and Venue

2. This action arises under the Eighth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983, the Constitution of the State of New York, and New York statutory and common law. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 and §1343(3). Plaintiff asserts jurisdiction over the City of New York under 28 U.S.C. §1367 and asks that this Court exercise pendent jurisdiction over those state law claims arising out of the same common nucleus of operative facts as do plaintiff's federal claims.

3. Pursuant to 28 U.S.C. §1391(b), venue is proper in the Southern District of New York because the events forming the basis of plaintiff's Complaint occurred in that District.

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CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS SECTION